

REMARKS

Applicants note with appreciation that, in the Office Action of June 19, 2009, Applicants' previous arguments with respect to claims 1 and 3-16 have been found to be persuasive. However, claims 1 and 3-16 are rejected under 35 U.S.C. 112, first paragraph, as allegedly failing to comply with the written description requirement.

In response, Applicants respectfully submit that claims 1 and 3-16 do comply with the written description requirement under 35 U.S.C. 112, first paragraph, as explained below. As such, Applicants respectfully request the allowance of pending claims 1 and 3-16.

A. Patentability of Independent Claims 1, 8 and 13

The independent claim 1 recites in part "*the ID communication partner device being always activated to the same mode selected from a Reader Talks First (RTF) mode and a Tag Talks First (TTF) mode when the recognition result signal indicates the absence of the mode activation signal, the ID communication partner device being always activated to the other mode of the RTF mode and the TTF mode when the recognition result signal indicates the presence of the mode activation signal,*" which is clearly supported by the specification, as explained below. Thus, the independent claim 1 complies with the written description requirement under 35 U.S.C. 112, first paragraph. As such, Applicants respectfully request that the independent claim 1 be allowed.

The support for the limitation of "*the ID communication partner device being always activated to the same mode selected from a Reader Talks First (RTF) mode and a Tag Talks First (TTF) mode when the recognition result signal indicates the absence of the mode activation signal*" can be found in at least the paragraph beginning at line 26 on page 9 of the specification. As explained on page 9, lines 28-31, the reader station 4 (the claimed "*other ID communication partner device*") "is initially set to the RTF mode." As also explained on page 9, lines 32-34, and on page

10, line 1, “[s]ince there is still no RTF/TTF activation signal [the claimed “*mode activation signal*”], the RTF/TTF activation signal recognition means 24 of the data carrier 2 [the claimed “*ID communication partner device*”] outputs a recognition result signal RRS to the activation means 28 such that the RTF mode is activated.” Thus, in the absence of an RTF/TTF activation signal, the data carrier 2 is activated to the RTF mode. As further explained below, in the presence of an RTF/TTF activation signal, the data carrier 2 is always activated to the TTF mode. Consequently, in the absence of an RTF/TTF activation signal, the data carrier 2 is always activated to the RTF mode. As such, the claim limitation of “*the ID communication partner device being always activated to the same mode selected from a Reader Talks First (RTF) mode and a Tag Talks First (TTF) mode when the recognition result signal indicates the absence of the mode activation signal*” is clearly supported by the specification.

The support for the limitation of “*the ID communication partner device being always activated to the other mode of the RTF mode and the TTF mode when the recognition result signal indicates the presence of the mode activation signal*” can be found in at least the paragraph beginning at line 3 on page 11 of the specification. As explained on page 11, lines 4-7, “[t]he RTF/TTF activation signal recognition means 24 of the data carrier 2’ recognize, immediately thereafter, that a reader signal RS designated with an RTF/TTF activation signal AS is present and subsequently initiate the bringing of the data carrier 2’ into the TTF mode.” Thus, the data carrier 2’ is activated to the TTF mode in the presence of an RTF/TTF activation signal (the claimed “*mode activation signal*”). That is, in the presence of an RTF/TTF activation signal, the data carrier 2’ is always activated to the TTF mode. The data carriers 2 and 2’ are similar devices so the functionalities of the two carriers are the same. Thus, in the presence of an RTF/TTF activation signal, the data carrier 2 is always activated to the TTF mode. As such, the claim limitation of “*the ID communication partner device being always activated to the other mode of the RTF mode and the TTF mode when the recognition result signal indicates the presence of the mode activation signal*” is clearly supported by the specification.

Applicants note herein that the claim word “*always*” is not used in the specification to describe the activation of RTF or TTF mode according to the absence or presence of an RTF/TTF activation signal. However, it is well established that an

applicant is not limited to the exact language used in the application as filed in making amendments to the claims. Thus, Applicants respectfully submit that, although the claim word “*always*” is not used in the specification, the use of such word to describe the activation of RTF or TTF mode according to the absence or presence of an RTF/TTF activation signal is clearly supported in the specification, as set forth above. As such, Applicants respectfully request that the Section 112, first paragraph, rejection of claim 1 be withdrawn, and that claim 1 be allowed.

The above remarks are also applicable to the independent claims 8 and 13, which include limitations similar to those of the independent claim 1. As such, Applicants respectfully request that the Section 112, first paragraph, rejections of claims 8 and 13 be withdrawn, and that claims 8 and 13 be allowed as well.

B. Patentability of Dependent Claims 3-7, 9-12 and 14-16

Since the rejections of the dependent claims 3-7, 9-12 and 14-16 are based on the Section 112, first paragraph, rejections of the independent claims 1, 8 and 13, Applicants respectfully submit that these dependent claims are allowable based on the allowablity of the their respective base claims.

Applicants respectfully request reconsideration of the claims in view of the remarks made herein. A notice of allowance is earnestly solicited.

Respectfully submitted,
Breitfuss et al.

Date: September 21, 2009

By: /thomas h. ham/
Thomas H. Ham
Registration No. 43,654
Telephone: (925) 249-1300